

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	James R. Braig et al
Appl. No.	:	10/826,006
Filed	:	April 15, 2006
For	:	DUAL MEASUREMENT ANALYTE DETECTION SYSTEM
Examiner	:	Lore Ramillano
Group Art Unit	:	1743

RESPONSE TO RESTRICTION REQUIREMENT**Mail Stop Amendment**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Dear Sir:

In response to the restriction requirement, **Applicants elect Group II (Claims 16-20)** for prosecution in the present application.

The present election is being made with traverse. Applicants submit that it is well established that:

If the search and examination of an entire application can be made without **serious burden**, the examiner **must** examine it on the merits, **even though it includes claims to independent or distinct inventions**.

M.P.E.P. § 803 (emphasis added).

Non-elected Group I (Claims 1-15) is directed to an analyte detection system for detecting more than one analyte, the system comprising: 1) an analyte detection device configured to measure a concentration of first and second analytes in a material sample; and 2) a processing circuit configured to determine whether a concentration of said first analyte falls within a previously-specified range, and activates said analyte detection device to measure a concentration of a second analyte if said concentration of said first analyte falls outside of said previously specified range.

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of a second analyte if said concentration of said first analyte falls outside of said previously specified range.

Non-elected Group III (Claims 21-27) is directed to: a method for measuring concentrations of a plurality of analytes in a single sample, the method comprising: 1) providing a material sample; providing an analyte detection system; 2) measuring a first concentration of a first analyte in said material sample with said analyte detection system; 3) determining whether said first concentration of said first analyte exceeds a first previously-specified value, or is less than a second previously-specified value; and 4) measuring a second concentration of a second analyte in said material sample if said first concentration exceeds said first previously-specified value or if said first concentration is less than said second previously-specified value.

Non-elected Group IV (Claims 28-36) is directed to: a method of determining a medical condition using an analyte detection system, the method comprising: 1) providing an analyte detection system comprising an optical source and a detector defining an optical path therebetween; 2) providing a sample element for receiving a material sample for analysis; 3) engaging a material sample from a patient with the sample element, and placing the sample element in the analyte detection system; 4) measuring a first concentration of a first analyte in said sample; and 5) measuring a second concentration of a second analyte in said sample without removing said sample element.

By comparison, elected Group II (Claims 16-20) is directed to: a device for measuring a concentration of an analyte in a material sample, said device comprising: 1) an optical source configured to emit electromagnetic radiation in a range of about 4.275 to about 10.060 μm ; 2) a detector positioned with respect to the source, so that the source and the detector define an optical path therebetween; 3) a sample element configured to support a material sample in said optical path; 4) a first array of filters disposed in said optical path between said sample element and said source, said first array of filters being configured to allow electromagnetic radiation of a first set of previously determined values to impinge on the sample element, the first set of previously determined values associated with a first analyte; 5) a second array of filters disposed in said optical path between said sample element and said source, said second array of filters being configured to allow electromagnetic radiation of a second set of previously determined

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A proper search for art related to the elected Group would necessarily include the classes and subclasses relevant to a search for the non-elected Groups. Thus, examination of all the claims would not present "a serious burden" on the Examiner. Applicants therefore respectfully request that the present restriction requirement be withdrawn.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: February 8, 2007

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AMEND

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